

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

\_\_\_\_\_  
CATHERINE HITCH  
c/o 1825 K Street, NW, Ste. 750,  
Washington, DC 20006

Plaintiff,

v.

\_\_\_\_\_  
L. FRANCIS CISSNA  
DIRECTOR,  
U.S. CITIZENSHIP AND  
IMMIGRATION SERVICES,  
in his official capacity  
as well as his successors and assigns  
111 Massachusetts Avenue, NW,  
Washington, DC 20529-2260

Defendant.  
\_\_\_\_\_

Case No.: \_\_\_\_\_

**COMPLAINT**

Plaintiff Catherine Hitch (“Plaintiff”), by undersigned counsel, alleges as follows:

**NATURE OF THE CASE**

1. This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as amended, challenging the failure of the U.S. Citizenship and Immigration Services (“Agency”) to fulfill the request filed on behalf of the Plaintiff for records relating to contracts involving Pitney Bowes and investigations, wrongdoing and enforcement related thereto; solicitation of new contracts related to meter equipment and services; the Agency’s adherence to management directives; and investigations related to Plaintiff’s allegations of wrongdoing by Agency personnel.
2. This case seeks declaratory relief that the Agency is in violation of FOIA for failing to make

an initial determination in response to Plaintiff's request for records in a timely manner, and injunctive relief that the Agency immediately and fully comply with Plaintiff's request under FOIA.

### **JURISDICTION AND VENUE**

3. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the parties pursuant to 5 U.S.C. § 552(a)(4)(B). This Court also has jurisdiction pursuant to 28 U.S.C. § 1331.
4. Venue is proper pursuant to 5 U.S.C. § 552(a)(4)(B).

### **THE PARTIES**

5. Plaintiff is a former employee of the Agency.
6. Defendant Agency is an agency within the meaning of 5 U.S.C. § 552(f). The Agency has possession and control of the requested records and is responsible for fulfilling Plaintiff's FOIA request.

### **STATUTORY FRAMEWORK**

7. FOIA, 5 U.S.C. § 552, requires agencies of the federal government to release requested records to the public unless one or more specific statutory exemptions apply.
8. An agency must respond to a party making a FOIA request within 20 working days, notifying that party of at least the agency's determination whether or not to fulfill the request and the requester's right to appeal the agency's determination to the agency head. 5 U.S.C. § 552(a)(6)(A)(i).
9. FOIA, 5 U.S.C. § 552(a)(6)(B), permits a 10-day extension of time to respond in certain "unusual circumstances."
10. In "unusual circumstances," an agency may delay its response to a FOIA request or appeal,

but must provide written notice and “the date on which a determination is expected to be dispatched.” 5 U.S.C. § 552(a)(6)(B).

11. This Court has jurisdiction, upon receipt of a complaint, “to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. 5 U.S.C. § 552(a)(4)(B).

**FACTS UNDERLYING PLAINTIFF’S CLAIM FOR RELIEF**

12. On January 3, 2019, Plaintiff, through counsel, sent a FOIA request to the Agency seeking:  
All information and draft or finalized documents and communications stored electronically, digitally or in hardcopy, including but not limited to, memorialized internal or external communications, memoranda, announcements, postings, cancelled postings, evaluations, solicitations, contract files, contract amendments, proposals, finalized intra-Agency contracts, decisions, records of phone calls, official documents, personal notes, correspondence, emails, text messages, calendar invitations, reports, and archived instant messages:
  - a. from January 30, 2017 to present regarding any Pitney Bowes, Inc. Contract that provides equipment, services or any deliverable to one or more USCIS office(s).
  - b. from August 30, 2017 to present pertaining to any announcement, posting, RFP, RFI. or similar, posted for meter equipment, services, or supplies, intended to serve USCIS.
  - c. from August 30, 2017 to present pertaining the decision to withdraw or pull any announcement, posting, RFP, RFI. or similar, and/or not award a contract for mail meter equipment, services, or supplies, intended to serve USCIS.
  - d. from January 1, 2014 to present regarding any investigation into potential

wrongdoing and/or enforcement of all existing Pitney Bowes, Inc. contracts (including, but not limited to, HSSCCG-15-F-00075 and HSSCCG-13-F-00099) with USCIS.

- e. from January 1, 2017 to present regarding consideration to award the targeted Fall 2017 contract for meter equipment, services, and/or supplies, intended to serve USCIS, to anyone other than Pitney Bowes, Inc.
- f. from January 1, 2014, to present evidencing Stephen Dale Allen complied with all required DHS Management Directives pertaining to contracting, including, but not limited to, the DHS Mandatory First Source II vehicle, DHS Management Directive 060-01, effective August 24, 2012, making DHS strategic sourcing contract vehicles mandatory for use, and received approval or exception from the DHS Small Business Office prior to establishing requisite contracts.
- g. from January 1, 2016 to present regarding any investigation into potential wrongdoing and/or enforcement of USCIS employees Michael Gibbs and Rex Steves, and former USCIS employee, Stephen Dale Allen.
- h. from March 1, 2017, to present regarding any investigation by Senior Management Officials and/or Law Enforcement Officials pertaining to Whistleblower Catherine Hitch's allegations of potential wrongdoing and/or enforcement of former USCIS employee, Stephen Dale Allen.
- i. from March I, 2017, to present regarding any investigation by Senior Management Officials and/or Law Enforcement Officials regarding Stephen Dale Allen, his immediate family, relatives, and/or friend's affiliation with or

connection to Pitney Bowes, Inc. (or subsidiaries) and/or any of the Pitney Bowes Point of Contacts assigned to USCIS.

13. By letter dated January 17, 2019, the Agency acknowledged receipt of the request on January 9, 2019. The Agency assigned the request the control number NRC2019007549. The Agency exercised its right under 5 U.S.C. § 552(a)(6)(B) for a 10-day extension of time to issue a determination as to whether it intends to respond to the Plaintiff's FOIA request.
14. To date, Plaintiff has not received any further response or any determination from the Defendant as to her FOIA request.
15. Plaintiff is not required to exhaust administrative appeal remedies because the Agency failed to make a determination within the statutory period.

**PLAINTIFF'S CLAIMS FOR RELIEF**

**COUNT 1**

**Failure to Produce Records Under FOIA  
(5 U.S.C. § 552)**

16. Plaintiff repeats and realleges every allegation in the Complaint.
17. Plaintiff, through counsel, properly asked for records within the Agency's control on January 4, 2019.
18. Defendant has not provided a determination to the Plaintiff as to whether the Agency intends to respond to the Plaintiff's request.
19. Defendant has also neither produced any records to Plaintiff in response to her FOIA request nor made any explicit and justified claims of statutory exemption.
20. Plaintiff is not required to exhaust otherwise applicable administrative remedies with respect to Agency's failure to respond within the statutory time period.
21. The Agency violated FOIA's mandate to release agency records to the public by failing to

release the records Plaintiff specifically requested. 5 U.S.C. § 552(a)(3)(A), 552(a)(4)(B).

22. Accordingly, Plaintiff is entitled to injunctive and declaratory relief with respect to the release and disclosure of the records requested in Plaintiff's January 4, 2019 FOIA request.

WHEREFORE, Plaintiff respectfully requests this Court:

- a. Declare that the Agency violated FOIA by failing to lawfully satisfy Plaintiff's January 4, 2019 FOIA request;
- b. Order the Agency to process and release immediately all records responsive to Plaintiff's January 4, 2019 FOIA request at no cost to Plaintiff;
- c. Retain jurisdiction of this action to ensure the processing of Plaintiff's FOIA request and that no agency records are wrongfully withheld;
- d. Award Plaintiff her reasonable attorney fees and litigation costs in this action pursuant to 5 U.S.C. § 552(a)(4)(E); and
- e. Award any additional relief the Court deems just.

Date: March 15, 2019

RESPECTFULLY SUBMITTED,

Alan Lescht & Associates, P.C.

By: /s/  
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